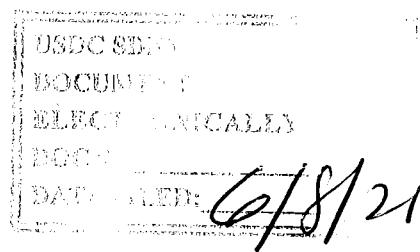


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----x  
MICHAEL EISENBERG, :  
Plaintiff, :  
v. :  
: :  
THE COUNTY OF WESTCHESTER, :  
WESTCHESTER COUNTY DEPARTMENT :  
OF CORRECTIONS, JOSEPH K. SPANO, In :  
his capacity as Commissioner of the Westchester :  
County Department of Corrections, SERGEANT :  
DEIGAN, JOHN DOES I-X, and JAHIV NILES, :  
Defendants. :  
-----x

**ORDER**

21 CV 4507 (VB)

On June 4, 2021, defendants moved to dismiss the amended complaint. (Doc. #7).

Accordingly, it is hereby ORDERED that, by no later than June 14, 2021, plaintiff must notify the Court by letter whether he (i) intends to file a second amended complaint in response to the motion to dismiss, or (ii) will rely on the amended complaint that is the subject of the motion to dismiss.

If plaintiff elects not to file a second amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiff a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendants' motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility"); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If plaintiff elects to file a second amended complaint, he must file the second amended complaint by no later than 14 days after notifying the Court of his intent to do so. Within 21 days of such amendment, defendants may either: (i) file an answer to the second amended complaint; or (ii) file a motion to dismiss the second amended complaint; or (iii) notify the Court by letter that they are relying on the initially filed motion to dismiss.

Dated: June 7, 2021  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent L. Briccetti".

Vincent L. Briccetti  
United States District Judge